

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

DECARLOS ORLANDO BROWN,

Defendant-Appellant.

UNPUBLISHED

March 17, 2005

No. 252037

Oakland Circuit Court

LC No. 03-190641-FC

Before: Murray, P.J., and Markey and O'Connell, JJ.

MEMORANDUM.

Following a jury trial, defendant was convicted of armed robbery, MCL 750.529, and first-degree home invasion, MCL 750.110a(2). He was sentenced as an habitual offender under MCL 769.11 to 136 months to 50 years' imprisonment for the armed robbery conviction and 87 months to 40 years' imprisonment for the first-degree home invasion conviction. Defendant appeals by right. This Court denied defendant's prior motion for remand. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

The sole issue on appeal is whether the jury's verdict was against the great weight of the evidence. Defendant has forfeited the issue by failing to move for a new trial in the trial court. *People v Winters*, 225 Mich App 718, 729; 571 NW2d 764 (1997). Review is thus limited to plain error affecting defendant's substantial rights. *People v Musser*, 259 Mich App 215, 218; 673 NW2d 800 (2003).

There was no error. Defendant's allegations relate solely to matters of credibility. Such questions of credibility are best left for the jury as factfinder. *People v Lemmon*, 456 Mich 625; 576 NW2d 129 (1998). The victim, an eighty-four-year-old man, positively identified defendant as the robber, both in interviews with police and while observing a photographic lineup. Defendant argues that the victim's testimony was inconsistent and the fact that the victim had a legal conservator and guardian indicates that he was feeble-minded. Defense counsel presented

defendant's theory, but the jury simply chose to believe the victim's testimony. Such was their prerogative.

We affirm.

/s/ Christopher M. Murray

/s/ Jane E. Markey

/s/ Peter D. O'Connell